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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/034,119	01/03/2002	Carter F. Lloyd	2671/4	8414

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EXAMINER

DANGANAN, JONI BALDOS

ART UNIT	PAPER NUMBER
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3723

DATE MAILED: 08/14/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/034,119

Applicant(s)

CARTER

Examiner

Joni B. Danganan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 9-16 is/are rejected.
- 7) ☒ Claim(s) 7 and 8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 January 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to because:
  - (a) page 3, line 2 refers to "locking pliers 10" but is not labeled in the figures;
  - (b) in Fig. 2, "15" should be changed to --15'-- since this anvil is an alternative embodiment; and
  - (c) in Fig. 3, "11" should be changed to --11'-- since this plate is an alternative embodiment.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### *Specification*

2. The disclosure is objected to because of the following informalities:
  - (a) page 2, paragraph 7, change "plates that are" to --a plate that is--, delete "and lower", and change "jaws" to --jaw--;
  - (b) page 4, lines 5 and 6, change both occurrences of "10 and 11" to --11 and 12--;
  - (c) page 5, paragraphs 15-17, change each occurrence of "15" to --15'--; and
  - (d) page 6, paragraph 19, change each occurrence of "11" and "12" to --11'-- and --12'--,respectively.

Appropriate correction is required.

***Claim Objections***

3. Claim 15 is objected to because of the following informalities: line 2, add --and-- after "shingle;". Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 2, 4 and 9-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 recites the anvil fixed to "at least one of said plates." This appears to be inaccurate/misdescriptive since the specification and drawings disclose the anvil fixed to either jaw (14) or elongated rod (21) but not to either plate.

Claim 4 recites the upper jaw "pivotally coupled to said first handle." This appears to be inaccurate/misdescriptive since the specification and drawings disclose the upper jaw *fixed* to the first handle and the *lower* jaw pivotally coupled to the second handle.

Claim 9, line 4 recites "an anvil coupled to said plates." As discussed above this appears to be inaccurate/misdescriptive since the anvil is not disclosed as coupled to the plates but rather to a jaw or elongated rod. Similarly, the elongated rod is not "coupled to said plates" as recited in Claim 11 but coupled to the lower jaw.

***Claim Rejections - 35 USC § 103***

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6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-6 and 9-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Small 4,669,341 in view of Verna 4,386,542.

Small discloses an extraction device comprising a pliers having an upper jaw (15) opposing a lower jaw (17), said upper jaw coupled to a first handle (13), said lower jaw coupled to a second handle (20), said first handle pivotally coupled to said second handle; and an anvil (33) coupled to said pliers. However, Small does not disclose a plate coupled to each jaw. Verna teaches that it is known in the art to couple plates (16,19) to the jaws (15,18) of a pliers in order to provide large gripping surfaces (column 1, line 34) for positively gripping sheets (column 1, line 23). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Small by including plates on the jaws as taught by Verna in order to utilize the tool for gripping sheet-like workpieces such as shingles. Regarding Claims 9-11, Small discloses the method for removing a workpiece from a substrate. It would have been obvious to one of ordinary skill in the art to have modified the method of Small to remove shingles since Small states in column 2, lines 24-30 that the device may be used with various articles or workpieces. Regarding Claims 12-14, it is known in the art of shingle removal to remove fasteners from a substrate after the shingle has been removed by various means including shearing the nail, pulling the nail and hammering in the nail

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8. Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Small 4,669,341.

Small discloses a system for removing a workpiece including means for gripping the workpiece (12) and means for applying force (30) to said means for gripping the workpiece. It would have been obvious to one of ordinary skill in the art to have modified Small for use with shingles since Small states in column 2, lines 24-30 that the device may be used with various articles or workpieces. Regarding Claim 16, it is known in the art of shingle removal to remove fasteners from a substrate after the shingle has been removed, and therefore, it would have been obvious to one of ordinary skill in the art to have further modified Small to include a fastener removing means to the system.

#### ***Allowable Subject Matter***

9. Claims 7 and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Fig. 1 of Genova 4,307,635 discloses a plier tool similar to the disclosed invention.

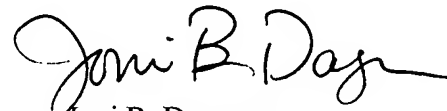
Glassburn 3,572,187 discloses a plier tool in the related art.

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11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joni B. Danganan whose telephone number is 703-305-5930.

The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-3270 for regular communications and 703-305-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.



Joni B. Danganan  
Examiner  
Art Unit 3723

jbd  
August 12, 2002